

**AUTHORITY OF THE TEXAS ALCOHOLIC BEVERAGE
COMMISSION TO OFFER A CIVIL PENALTY IN LIEU OF
SUSPENDING A PERMIT OR LICENSE**

CHAPTER 56

H.B. No. 1612

AN ACT

relating to the authority of the Texas Alcoholic Beverage Commission to offer a civil penalty in lieu of suspending a permit or license.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 11.64(a), Alcoholic Beverage Code, is amended to read as follows:

(a) When the commission or administrator is authorized to suspend a permit or license under this code, the commission or administrator shall give the permittee or licensee the opportunity to pay a civil penalty rather than have the permit or license suspended, unless the basis for the suspension is a violation of Section 11.61(b)(14), 22.12, 28.11, 32.17(a)(2), 32.17(a)(3), 61.71(a)(5), 61.71(a)(6), 61.74(a)(14), 69.13, 71.09, 101.04, 101.63, 104.01(a)(4), 106.03, 106.06, or 106.15, the sale or offer for sale of an alcoholic beverage during hours prohibited by Chapter 105, consumption or the permitting of consumption of an alcoholic beverage on the person's licensed or permitted premises during hours prohibited by Chapter 105 or Section 32.17(a)(7), or an offense relating to prostitution, trafficking of persons, ~~or~~ gambling, or *controlled substances or drugs*, in which case the commission or administrator shall determine whether the permittee or licensee may have the opportunity to pay a civil penalty rather than have the permit or license suspended. The commission shall adopt rules addressing when suspension may be imposed pursuant to this section without the opportunity to pay a civil penalty. In adopting rules under this subsection, the commission shall consider the type of license or permit held, the type of violation, any aggravating or ameliorating circumstances concerning the violation, and any past violations of this code by the permittee or licensee. In cases in which a civil penalty is assessed, the commission or administrator shall determine the amount of the penalty. The amount of the civil penalty may not be less than \$150 or more than \$25,000 for each day the permit or license was to have been suspended. If the licensee or permittee does not pay the penalty before the sixth day after the commission or administrator notifies him of the amount, the commission or administrator shall impose the suspension.

SECTION 2. Section 11.64(a), Alcoholic Beverage Code, as amended by this Act, applies only to the imposition of a penalty for a violation that occurs on or after the effective date of this Act. The imposition of a penalty for a violation that occurs before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2017.

Passed by the House on April 13, 2017: Yeas 136, Nays 2, 3 present, not voting; passed by the Senate on May 9, 2017: Yeas 30, Nays 1.

Approved May 22, 2017.

Effective September 1, 2017.

**CONTINUATION AND FUNCTIONS OF THE RAILROAD
COMMISSION OF TEXAS; PROVIDING FOR THE IMPOSITION
OF FEES**

CHAPTER 57

H.B. No. 1818

AN ACT

relating to the continuation and functions of the Railroad Commission of Texas; providing for the imposition of fees.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 81.01001(a), Natural Resources Code, is amended to read as follows:

(a) The Railroad Commission of Texas is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished September 1, 2029 [2017].

SECTION 2. Subchapter C, Chapter 81, Natural Resources Code, is amended by adding Sections 81.065 and 81.066 to read as follows:

Sec. 81.065. ALTERNATIVE DISPUTE RESOLUTION POLICY. (a) *The commission shall develop and implement a policy to encourage the use of appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the commission's jurisdiction.*

(b) *The commission's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.*

(c) *The commission shall:*

- (1) *coordinate the implementation of the policy adopted under Subsection (a);*
- (2) *provide training as needed to implement the procedures for alternative dispute resolution; and*
- (3) *collect information concerning the effectiveness of those procedures.*

Sec. 81.066. OIL AND GAS DIVISION MONITORING AND ENFORCEMENT STRATEGIC PLAN. (a) *The oil and gas division of the commission shall develop and publish an annual plan for each state fiscal year to use the oil and gas monitoring and enforcement resources of the commission strategically to ensure public safety and protect the environment.*

(b) *The commission shall seek input from stakeholders when developing each annual plan.*

(c) *The commission shall collect and maintain information that accurately shows the commission's oil and gas monitoring and enforcement activities. Each annual plan must include a report of the information collected by the commission that shows the commission's oil and gas monitoring and enforcement activities over time.*

(d) *The information described by Subsection (c) must include data regarding violations of statutes or commission rules that relate to oil and gas, including:*

- (1) *the number, type, and severity of:*
 - (A) *violations the commission found to have occurred;*
 - (B) *violations the commission referred for enforcement to the section of the commission responsible for enforcement; and*
 - (C) *violations for which the commission imposed a penalty or took other enforcement action;*
- (2) *the number of major violations for which the commission imposed a penalty or took other enforcement action; and*
- (3) *the number of repeat major violations, categorized by individual oil or gas lease, if applicable.*

(e) *The commission shall publish each annual plan on the commission's Internet website not later than July 1 of the year preceding the state fiscal year in which the commission implements the plan.*

SECTION 3. Section 81.067(c), Natural Resources Code, is amended to conform to the repeal of Section 81.112, Natural Resources Code, by Chapter 470 (S.B. 757), Acts of the 84th Legislature, Regular Session, 2015, and is further amended to read as follows:

(c) The fund consists of:

- (1) proceeds from bonds and other financial security required by this chapter and benefits under well-specific plugging insurance policies described by Section 91.104(c) that are paid to the state as contingent beneficiary of the policies, subject to the refund provisions of Section 91.1091, if applicable;
- (2) private contributions, including contributions made under Section 89.084;
- (3) expenses collected under Section 89.083;
- (4) fees imposed under Section 85.2021;
- (5) costs recovered under Section 91.457 or 91.459;
- (6) proceeds collected under Sections 89.085 and 91.115;
- (7) interest earned on the funds deposited in the fund;
- (8) oil and gas waste hauler permit application fees collected under Section 29.015, Water Code;
- (9) costs recovered under Section 91.113(f);
- (10) hazardous oil and gas waste generation fees collected under Section 91.605;
- (11) oil-field cleanup regulatory fees on oil collected under Section 81.116;
- (12) oil-field cleanup regulatory fees on gas collected under Section 81.117;
- (13) fees for a reissued certificate collected under Section 91.707;
- (14) fees collected under Section 91.1013;
- (15) fees collected under Section 89.088;
- (16) fees collected under Section 91.142;
- (17) fees collected under Section 91.654;
- (18) costs recovered under Sections 91.656 and 91.657;
- (19) fees collected under Section 81.0521;
- (20) fees collected under Sections 89.024 and 89.026;
- (21) legislative appropriations;
- (22) any surcharges collected under Section 81.070;
- (23) fees collected under Section 91.0115;
- (24) ~~money deposited to the credit of the fund under Section 81.112;~~
- ~~[(25)]~~ fees collected under Subchapter E, Chapter 121, Utilities Code; ~~and~~
- (25) ~~[(26)]~~ fees collected under Section 27.0321, Water Code; *and*
- (26) *fees collected under Section 81.071.*

SECTION 4. Section 81.068, Natural Resources Code, is amended to read as follows:

Sec. 81.068. PURPOSES OF OIL AND GAS REGULATION AND CLEANUP FUND. Money in the oil and gas regulation and cleanup fund may be used by the commission or its employees or agents for any purpose related to the regulation of oil and gas development, including oil and gas monitoring and inspections, oil and gas remediation, and oil and gas well plugging, the study and evaluation of electronic access to geologic data and surface casing depths necessary to protect usable groundwater in this state, ~~[alternative fuels programs under Section 81.0681,]~~ the administration of pipeline safety and regulatory programs, public information and services related to those activities, and administrative costs and state benefits for personnel involved in those activities.

SECTION 5. Subchapter C, Chapter 81, Natural Resources Code, is amended by adding Section 81.071 to read as follows:

Sec. 81.071. PIPELINE SAFETY AND REGULATORY FEES. (a) *The commission by rule may establish pipeline safety and regulatory fees to be assessed for permits or registrations for pipelines under the jurisdiction of the commission's pipeline safety and regulatory program.*

(b) *The commission may establish fees to be assessed annually against permit or registration holders, as well as individual fees for new permits or registrations, permit or registration renewals, and permit or registration amendments.*

(c) *The fees must be in amounts that in the aggregate are sufficient to support all pipeline safety and regulatory program costs, including:*

- (1) permitting or registration costs;*
- (2) administrative costs; and*
- (3) costs of employee salaries and benefits.*

(d) *The commission by rule must establish the method or methods by which the fees will be calculated and assessed so that fee amounts will reflect the time spent and costs incurred to perform the regulatory work associated with permitting or registering pipelines, the effects of required fees on operators of all sizes, and other factors the commission determines are important to the fair imposition of the fees. The commission may base the fees on any factor the commission considers necessary to efficiently and fairly recover the pipeline safety and regulatory program's costs, including:*

- (1) the length of the pipeline;*
- (2) the number of new permits or registrations, permit or registration renewals, or permit or registration amendments; or*
- (3) the number of pipeline systems.*

(e) *The commission by rule may establish a reasonable late payment penalty for a fee charged under this section.*

(f) *The authority provided by this section is in addition to the authority provided by Section 121.211, Utilities Code, and the commission shall consider any fees assessed under that section in establishing the fees to be assessed under this section.*

(g) *A fee collected under this section shall be deposited to the credit of the oil and gas regulation and cleanup fund as provided by Section 81.067.*

SECTION 6. Subchapter C, Chapter 81, Natural Resources Code, is amended by adding Section 81.072 to read as follows:

Sec. 81.072. **VERIFICATION BY CONTRACTORS.** (a) *In this section, "E-verify program" has the meaning assigned by Section 673.001, Government Code.*

(b) *The commission may not award a contract for goods or services in this state to a contractor unless the contractor and any subcontractor register with and participate in the E-verify program to verify employee information. The contractor and any subcontractor shall continue to participate in the program during the term of the contract.*

(c) *The commission shall develop procedures for the administration of the E-verify program under this section.*

SECTION 7. Section 117.012, Natural Resources Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The commission shall adopt rules that include:

(1) safety standards applicable to the intrastate transportation of hazardous liquids or carbon dioxide by pipeline and intrastate hazardous liquid or carbon dioxide pipeline facilities; and

(2) ~~[-including]~~ safety standards related to the prevention of damage to interstate and intrastate hazardous liquid or carbon dioxide pipeline facilities ~~[such a facility]~~ resulting from the movement of earth by a person in the vicinity of such a ~~[the]~~ facility, other than movement by tillage that does not exceed a depth of 16 inches.

(a-1) Rules adopted under Subsection (a) ~~[this subsection]~~ that apply to the intrastate transportation of hazardous liquids and carbon dioxide by gathering pipelines in rural locations and intrastate hazardous liquid and carbon dioxide gathering pipeline facilities in rural locations must be based only on the risks the transportation and the facilities present to the public safety, except that the commission shall revise the rules as neces-

sary to comply with Subsection (c) and to maintain the maximum degree of federal delegation permissible under 49 U.S.C. Section 60101 et seq., or a succeeding law, if the federal government adopts rules that include safety standards applicable to the transportation and facilities.

SECTION 8. Section 756.126, Health and Safety Code, is amended to read as follows:

Sec. 756.126. SAFETY STANDARDS AND BEST PRACTICES. The Railroad Commission of Texas shall adopt and enforce *rules prescribing* safety standards and best practices, including those described by 49 U.S.C. Section 6105 et seq., relating to the prevention of damage by a person to a facility, *including an interstate or intrastate pipeline facility*, under the jurisdiction of the commission.

SECTION 9. Section 121.201(a), Utilities Code, is amended to read as follows:

(a) The railroad commission may:

(1) by rule prescribe or adopt safety standards for the transportation of gas and for gas pipeline facilities, including safety standards related to the prevention of damage to *an interstate or intrastate gas pipeline* ~~[such a]~~ facility resulting from the movement of earth by a person in the vicinity of the facility, other than movement by tillage that does not exceed a depth of 16 inches;

(2) by rule require an operator that does not file operator organization information under Section 91.142, Natural Resources Code, to provide the information to the commission in the form of an application;

(3) by rule require record maintenance and reports;

(4) inspect records and facilities to determine compliance with safety standards prescribed or adopted under Subdivision (1);

(5) make certifications and reports from time to time;

(6) seek designation by the United States secretary of transportation as an agent to conduct safety inspections of interstate gas pipeline facilities located in this state;

(7) by rule take any other requisite action in accordance with 49 U.S.C. Section 60101 et seq. and its subsequent amendments or a succeeding law; and

(8) by rule establish safety standards and practices for gathering facilities and transportation activities in Class 1 locations, as defined by 49 C.F.R. Section 192.5:

(A) based only on the risks the facilities and activities present to the public safety, to the extent consistent with federal law; or

(B) as necessary to maintain the maximum degree of federal delegation permissible under 49 U.S.C. Section 60101 et seq., or a succeeding law, if the federal government adopts safety standards and practices for gathering facilities and transportation activities in Class 1 locations, as defined by 49 C.F.R. Section 192.5.

SECTION 10. Sections 81.0681 and 91.1135, Natural Resources Code, are repealed.

SECTION 11. The first state fiscal year for which the Railroad Commission of Texas is required by Section 81.066, Natural Resources Code, as added by this Act, to develop and publish the annual plan required by that section is the state fiscal year beginning September 1, 2018. The commission shall publish the plan not later than July 1, 2018.

SECTION 12. To the extent of any conflict, this Act prevails over another Act of the 85th Legislature, Regular Session, 2017, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 13. This Act takes effect September 1, 2017.

Passed by the House on March 29, 2017: Yeas 123, Nays 19, 3 present, not voting;
passed by the Senate on May 9, 2017: Yeas 29, Nays 2.

Approved May 22, 2017.

Effective September 1, 2017.